

HEBER CREEPER

P.O. BOX 69, HEBER CITY, UTAH, 84032

PHONE: (801) 654-2621

January 16, 1976

HEBER CREEPER, INC.
MINUTES BOARD OF DIRECTORS MEETING
JANUARY 15, 1976

Present: Lowe Ashton
Jim Ritchie

C. H. Nielsen
J. R. Edwards

Also Present:
Cindy Drury
Craig Drury

James Berry

Gordon Mendenhall left proxy with Lowe Ashton to assure director quorum. Lowe Ashton gave an introduction to Jim Berry's promotional and advertising ideas.

Mr. Berry then presented his promotional concept: He suggested the NIGHT TRAIN trip be shortened to two hours, making two trips an evening. The train fare would be a cover charge ranging from \$1.00 - \$1.50, (valid on both trips for those who wish to make the ride last for an entire evening). Limited menu would speed up things in the kitchen, and also the use of the power car so that the micro-wave ovens could be used, and the diner would have steam and air so they could prepare meals and serve people without having to be connected to the engine. The diner and lounge would be ready for the trip one hour prior to departure.

The food division also suggested the possibility of moving a hospital car north of the bunk house so they may prepare food for the diners. All equipment they would require would be available from the Hub Cafe. The caboose could be converted to a snack-bar car, to be placed on the south side of the depot.

He then suggested that we renovate the hospital car into another diner, (total capacity being 200 persons per evening), and remodel the chair car into a theatre car. The additional diner would create a private car for parties and groups in early season. The Monday NIGHT TRAIN diner would consist of a "Family type meal", and upon demand, an additional evening may be added.

The promotional departments budget will be as follows:

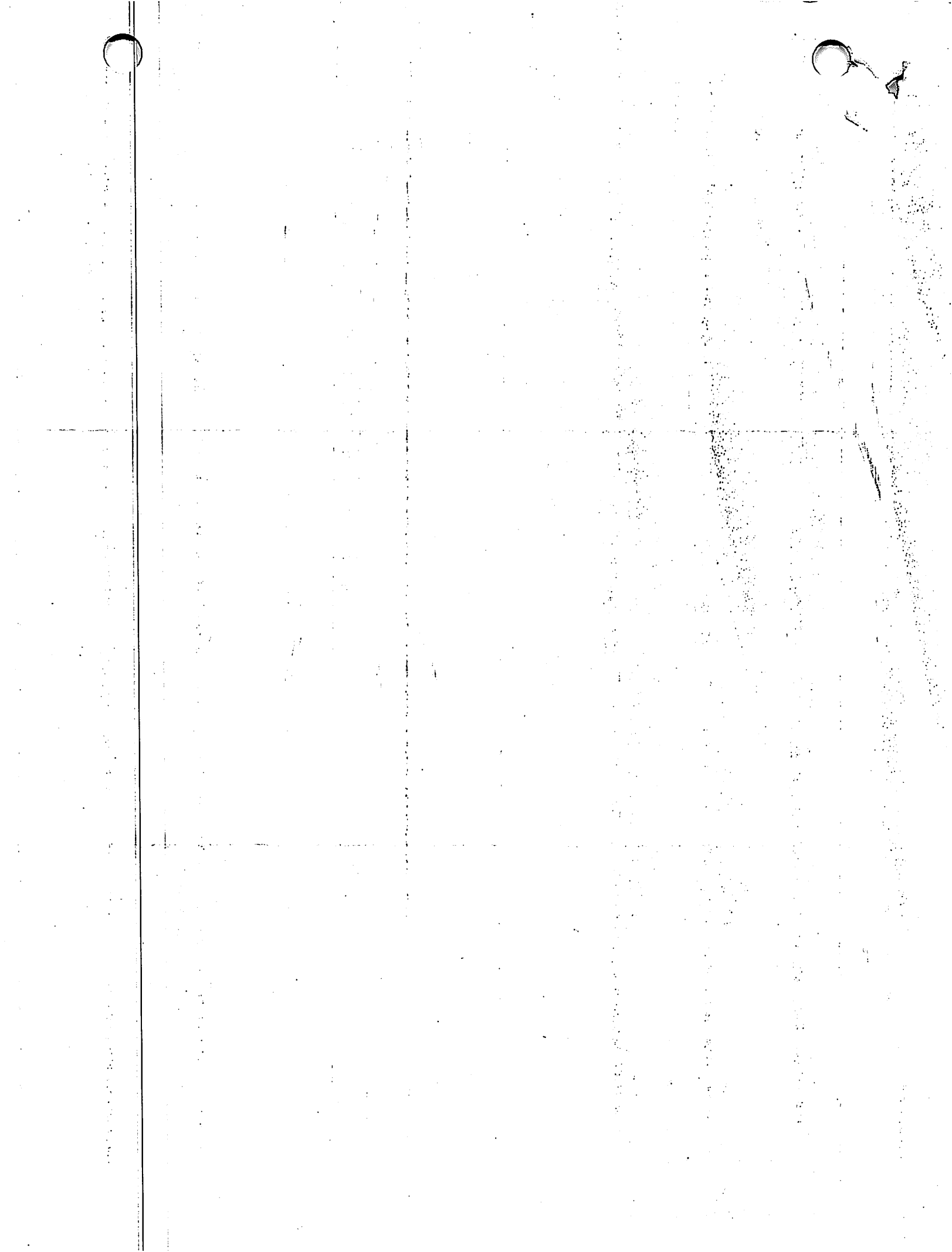
\$ 5,500.	Promotional individual (\$500 per month)
	Commissions available on 10% of contacts.
2,000.	Mr. Berry's fee (10 month promotional manager)
9,300.	Media (Newspaper ads, average of 45 inches per week.

3,000.	Radio
2,000.	Promotional Literature
1,000.	Billboard
<u>1,400.</u>	Misc.

TOTAL \$25,000.

Jim Ritchie moved we approve the promotional concept as presented by Mr. Berry. J. R. Edwards seconded. Motion carried.

Paul Davis
Cindy Drury



JOSEPH S. JONES
DONALD B. HOLBROOK
ROGER J. McDONOUGH
W. ROBERT WRIGHT
J. DANIEL STEWART
RANDON W. WILSON
RONALD J. OCKEY
ROBERT M. McDONALD
JACK LUNT
EDWARD J. McDONOUGH
MERRILL R. WEECH
JAMES S. LOWRIE
RONNY L. GUTSHALL
MICHAEL R. MURPHY
R. JEFFREY TAYLOR
CHRISTOPHER L. BURTON
LARRY C. HOLMAN
MARK O. VANWAGONER
D. MILES HOLMAN
JANE R. SEYMOUR
GLEN D. WATKINS

JONES, WALDO, HOLBROOK & McDONOUGH
(FORMERLY RAY, RAWLINS, JONES & HENDERSON)
ATTORNEYS AND COUNSELORS
800 WALKER BANK BUILDING
SALT LAKE CITY, UTAH 84111
PHONE 521-3200 AREA CODE 801

WILLIAM W. RAY
(1860-1957)
ATHOL RAWLINS
(1883-1963)
C. E. HENDERSON
(1906-1966)
H. R. WALDO, JR.
(1925-1975)

January 15, 1976

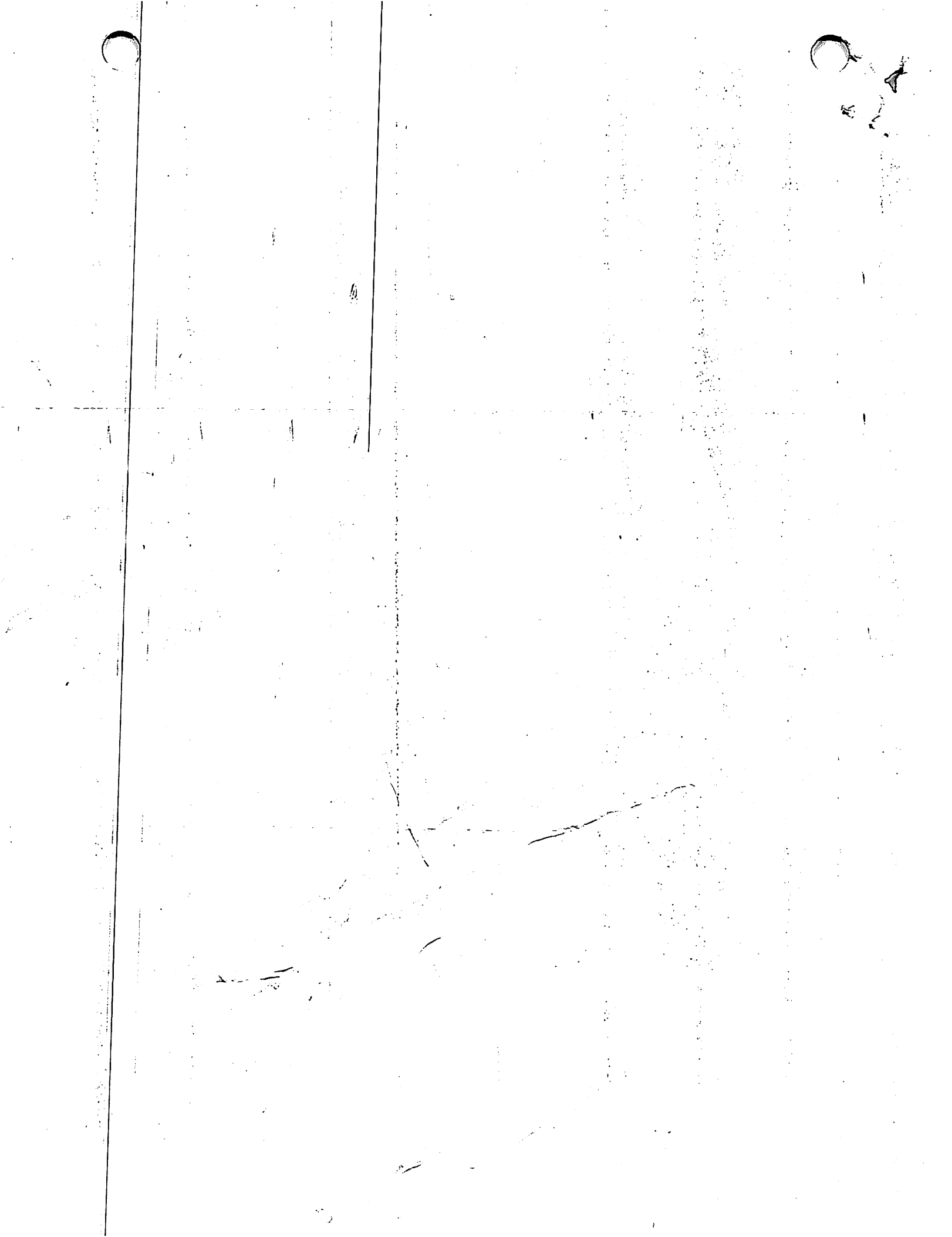
Mr. Lowe Ashton
Heber Creeper
P. O. Box 69
Heber City, Utah 84032

Dear Mr. Ashton:

I received your letter dated January 9, 1976 together with its enclosures. After reviewing the IRS's plan of attack with respect to the museum, it seems that my initial opinion letter is factually incorrect. In that letter I assumed that the museum was a private foundation as well as a 501(c)(3) charitable organization. The letter written by the IRS indicates that the museum is not a private foundation. If this were in fact the case, then the IRS could revoke the charitable status if it were determined that the museum flunked the operational test. If I were the counsel for the museum, the first thing I would argue, and argue very strenuously, is that the museum was indeed a private foundation and its status could only be terminated under Section 507 and the operational test as such would not be valid.

With this in view, and assuming that the museum is not a private foundation, I will endeavor to answer the three questions you asked in your letter.

1. It seems that the museum does flunk the operational test as stated in the letter from the IRS. Whether or not the lease with Heber Creeper is the primary reason for this loss of the museum's tax exempt status is purely a matter of conjecture and argument. It seems to me that the museum could have been doing things to promote their charitable status in accordance with the Articles of Incorporation which would have allowed them to keep their



tax exempt status even though the lease is in existence. It seems that the museum has done approximately nothing to promote their charitable purpose, which would indicate that their failure to do nothing is the primary reason for the termination of their status.

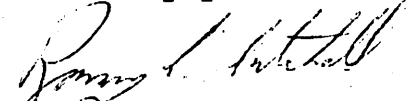
2. Again, the second question is a matter of conjecture. I would take the position that the lease was not the reason why the tax status was terminated, but the actual reason was the lack on the part of the museum to take any action to promote their charitable purposes. Under this position, it would seem that Clause 7 did not cause the tax exempt status to be terminated and it would therefore continue as is.

3. This third question is more or less: We realize we have a problem; what can we do to cure it? In view of the doubtfulness of the answers to the first two questions, it seems that the best thing to do is to reach an agreement between yourself and the museum as to what can be done to again establish the charitable purpose and the tax exempt status of the museum. One possible solution would be to sell some of the equipment to Heber Creeper. Another possible solution might be to establish an actual museum where the equipment can be displayed at all times during the winter months and part time during the summer months. Other steps can be taken by the museum to further their charitable purposes.

I would assume that the museum is not going to challenge the present ruling by the IRS. This does not say that they cannot apply for a new tax exempt status for their actions from that date forward.

I would assume that this letter will not fully answer your questions with respect to this matter nor the problems that the IRS has raised. Once you have absorbed this letter, please contact me to see what your next steps should be.

Sincerely yours,



Ronny L. Cutshall

RLC/jam